

**FILED**

Nov 26, 2002

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**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION **OF** CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS

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IN THE MATTER OF THE **SUSPENSION**  
**OR** REVOCATION OF THE LICENSE OF

Administrative **Action**

FARHAD MOHEBBAN, M.D.  
License No. MA 51997

FINAL ORDER  
**OF** DISCIPLINE

TO PRACTICE MEDICINE AND SURGERY :  
IN THE STATE OF NEW JERSEY .

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This matter was opened to the New Jersey State Board of Medical Examiners upon receipt of information **which** the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent, Farhad Mohebban, M.D., License No. MA 51997, is a physician **licensed** in the State of New Jersey and has been a licensee at all, times relevant hereto. As a consequence of Respondent's failure to submit his biennial renewal in 1991, Respondent's license to practice medicine in the State of New

**CERTIFIED TRUE COPY**

Jersey was automatically suspended pursuant to N.J.S.A. 45:9-6.1, which allows for reinstatement upon payment of certain **fees**.

2. On or about **January** 6, 1999 in the **United** States District Court, Southern District of New **York**, the Respondent was found guilty of **Medicare** Kickback Conspiracy and three counts of Medicare Kickbacks. He was sentenced to pay a \$20,000.00 fine, a \$400.00 **assessment** and two years probation. A copy of the criminal conviction documents is attached as Exhibit A.

3. On January 10, 2001 Respondent entered into a Consent **Agreement** and Order with the New York State Board for Professional Medical Conduct whereby he agreed to five years probation and a \$5,000.00 **fine** based on the criminal conviction. A copy of the Consent Agreement and Order together with the Statement of **Charges** is attached as Exhibit B.

#### CONCLUSIONS OF LAW

1. The above criminal conviction provide grounds to take disciplinary **action** against Respondent's **license** to practice medicine and **surgery** in New Jersey pursuant to N.J.S.A. 45:1-21(b), (f) and (k) and, further, relates adversely to the practice of medicine.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline revoking Respondent's license to practice medicine and surgery in the State of New Jersey was entered on February 4, 2002 and a copy was forwarded to Respondent's last

known address by means of both **regular** and certified mail. The Provisional Order **was** subject to finalization **by** the Board at 5:00 p.m. on the 30<sup>th</sup> **business** day following entry unless Respondent **requested a modification or dismissal of the** stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in **writing** any and **all** reasons why said **findings and conclusions** should **be** modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for **consideration** and reasons therefor.

Although the record reflects that **the** Provisional Order **was** served upon Respondent, **no response has been received** to date. **Accordingly,** the Board considered the matter, determined that further **proceedings** were not necessary and Provisional Order should **be made final.**

ACCORDINGLY, **IT** IS on this 26th day of Nov, 2002, ORDERED that:

1. Respondent's license to practice **medicine** in the State of **New Jersey** shall **be** and hereby is revoked.

2. Prior to resuming active practice in **New Jersey**, Respondent shall be required to appear before **the** Board (or a committee thereof) to demonstrate fitness to resume practice, and any practice in this State prior to said appearance shall constitute grounds for the charge of **unlicensed** practice. In

addition, the Board **reserves the** right to place restrictions on Respondent's practice should his **license** be reinstated.

NEW JERSEY STATE BOARD OF  
MEDICAL EXAMINERS

By: William V. Harrer M.D. B.L.D.  
William V. Harrer, M.D., B.L.D.  
Board President



**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

**APPROVED BY THE BOARD ON MAY 10, 2000**

All licensees who are the **subject** of a disciplinary order of the Board are required to **provide** the information required on the **Addendum to these Directives**. The information **provided** will be maintained separately and will not be **part** of the **public** document filed with the Board. Failure to provide the information required may result in further **disciplinary** action for failing to **cooperate** with the Board, **as required by N.J.A.C. 13:45C-1 et seq.** Paragraphs 1 through 4 below shall apply when a license is **suspended or revoked** or permanently surrendered, with or without **prejudice**. Paragraph 5 applies to licensees who are the **subject** of an order which, while permitting continued practice, contains a probation or monitoring requirement.

**1. Document Return and Agency Notification**

The licensee shall promptly forward to the **Board** office at **Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183**, the original license, current biennial registration **and**, if applicable, the original **CDS** registration. In addition, if the licensee **holds** a Drug Enforcement Agency (DEA) registration, **he or she** shall promptly advise the **DEA** of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the **Board** office for the return of the documents previously surrendered to the Board. In **addition**, at the conclusion of the term, the licensee should contact the **DEA** to advise of the resumption of practice **and to ascertain** the impact of that change upon his/her **DEA** registration.)

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but **also** from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively **advise patients** or others of the revocation, suspension or **surrender**, the licensee **must** truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee **is also prohibited** from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee **for** or rent at fair market value office premises **and/or** equipment. In no case may the disciplined licensee authorize, allow or condone the **use** of his/her provider number **by** any health care practice or any other licensee **or** health care **provider**. (In situations where the licensee **has** been **suspended** for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is **suspended**, for the payment of salaries for office staff **employed** at the time of the Board action.)

A licensee whose license has been revoked, **suspended** for one (1) year or more or **permanently surrendered** must **remove signs** and **take affirmative action** to stop **advertisements** by which his/her eligibility to practice is **represented**. The licensee must **also take steps to remove** his/her name from professional **listings**, telephone **directories**, professional **stationery**, or **billings**. If the licensee's name *is* utilized in a group practice **title**, it **shall be deleted**, **Prescription pads** bearing the **licensee's name** **shall be destroyed**. A destruction report form obtained from the **Office of Drug Control (973-504-6558)** must **be filed**. If no other licensee is **providing services** at the location, all **medications** must **be removed and returned** to the manufacturer, if **possible**, **destroyed** or safeguarded. (In **situations** where a license has been **suspended for less than one year**, **prescription pads** and **medications** need not **be destroyed** but must **be secured** in a **locked** place for **safekeeping**.)

### **3. Practice Income Prohibitions/Divestiture of Equity interest in Professional Service Corporations and Limited Liability Companies**

A licensee shall not charge, receive or share in any fee for professional **services** rendered by him/herself or **others** while **barred** from engaging in the professional practice. The licensee **may** be compensated for the **reasonable** value of **services** lawfully **rendered** and disbursements incurred on a patient's behalf prior to the **effective date** of the Board action.

A licensee who is a shareholder in a professional **service** corporation **organized** to engage in the professional practice, **whose** license is **revoked**, surrendered or suspended for a term of **one (1) year** or more shall **be deemed to be disqualified** from the practice within the meaning of the Professional Service Corporation Act. (**N.J.S.A. 14A:17-11**). A disqualified licensee shall **divest** him/herself of all financial interest in the **professional service** corporation pursuant to **N.J.S.A. 14A:17-13(c)**. A licensee who *is* a member of a limited liability company organized pursuant to **N.J.S.A. 42:1-44**, shall **divest** him/herself of all financial **interest**. Such divestiture shall occur within **90 days** following the the entry of the **Order rendering** the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation **forwarded** to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within **90 days** of the **licensee's** disqualification.

### **4. Medical Records**

If, as a **result of** the Board's action, a practice **is** closed or transferred to another location, the licensee **shall** ensure that during the **three (3) month** period following the **effective date** of the disciplinary order, a **message** will be delivered to patients calling the former *office premises*, advising where records may be obtained. The **message** should inform patients of the **names** and telephone numbers of the licensee (or his/her attorney) **assuming** custody of the **records**. The same information shall also **be disseminated** by means of a notice to **be** published at least once per month for **three (3) months** in a newspaper of

general circulation in the geographic vicinity in which the **practice was** conducted. **At the end of the three** month period, the licensee **shall file with the Board the name and** telephone number of the contact person who **will have access** to medical **records** of former patients. **Any** change in that individual or **his/her** telephone number shall be promptly reported to the Board. When a patient or his/her representative **requests** a copy of his/her **medical** record or **asks** that record **be forwarded** to another health care provider, the licensee **shall** promptly provide the record without charge to the patient.

## **5. Probation/Monitoring Conditions**

With **respect** to any licensee who **is** the **subject** of any Order **imposing a** probation or monitoring requirement or a **stay** of an active suspension, **in whole or in part**, which **is** conditioned upon compliance with a probation **or** monitoring requirement, the **licensee shall** fully cooperate with the Board and its **designated** representatives, including the Enforcement Bureau **of the** Division of Consumer **Affairs**, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the **expense** of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but **is not limited to**, inspection **of the** professional premises **and** equipment, and inspection **and** copying of patient records (confidentiality of patient identity shall **be protected by** the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, **but is not limited to**, practitioner cooperation in providing releases permitting unrestricted **access to records and** other information to the extent permitted by law from any treatment facility, other treating practitioner, support group **or** other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained **by** a rehabilitation program for impaired practitioners. If **bodily** substance monitoring has been **ordered**, the practitioner shall fully cooperate **by** responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

## ADDENDUM

**Any licensee who is the subject of an order of the Board suspending, revoking or otherwise conditioning the license, shall provide the following information at the time that the order is signed, if it is entered by consent, or immediately after service of a fully executed order entered after a hearing. The information required here is necessary for the Board to fulfill its reporting obligations:**

**Social Security Number:** \_\_\_\_\_

**List the Name and Address of any and all Health Care Facilities with which you are affiliated:**

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**List the Names and Address of any and all Health Maintenance Organizations with which you are affiliated:**

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**Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).**

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<sup>1</sup> Pursuant to **45 CFR Subtitle A Section 61.7 and 45 CFR Subtitle A Section 60.8**, the Board is required to obtain your Social Security Number and/or federal taxpayer identification number in **order** to discharge its responsibility to report adverse actions to the National Practitioner Data Bank **and the HIP Data Bank**.

**NOTICE OF REPORTING PRACTICES OF BOARD**  
**REGARDING DISCIPLINARY ACTIONS**

Pursuant to **N.J.S.A. 52:14B-3(3)**, **all orders** of the New Jersey State Board of Medical Examiners are **available for public inspection**. Should any inquiry be made concerning the **status** of a licensee, the inquirer will be **informed** of the existence of **the order** and a copy **will be** provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as **public hearings and the record**, including **the transcript** and documents **marked** in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, **the Board is obligated** to report to the National **Practitioners Data Bank** any action relating to a physician which is based **on** reasons **relating** to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands **or** places **or** probation,
- (3) Under which a **license** is surrendered.

Pursuant to 45 CFR Section 61.7, **the Board is obligated to report** to the **Healthcare Integrity and Protection (HIP) Data Bank**, any formal **or** official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation **or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.**

Pursuant to **N.J.S.A. 45:9-19.13**, if **the Board** refuses to issue, suspends, revokes or otherwise places conditions on a license **or** permit, it is obligated to notify each **licensed** health care facility and health maintenance organization with which a licensee is affiliated and every other **board** licensee in **this** state with whom he or she is directly associated in private **medical** practice.

In accordance with an agreement with the Federation of State Medical Boards of the **United States**, a list of **all** disciplinary orders **are** provided to that organization on a monthly **basis**.

Within the month following entry of an order, a summary of *the* order will **appear** on the public agenda for the **next** monthly Board meeting and is forwarded to **those** members of the public requesting a copy. In addition, **the same summary will appear** in the minutes of that Board **meeting**, which **are** also made available to those **requesting a copy**.

Within the month following entry of an order, a summary of the **order will** appear in a Monthly Disciplinary Action Listing which is **made** available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to **its** licensees a newsletter which includes a brief description of all of the **orders** entered by the Board.

From **time to time**, **the** Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing **herein** is intended in any way to **limit** the Board, the Division or the Attorney General from disclosing any public document.

# United States District Court

## Southern District of New York

UNITED STATES OF AMERICA

v.

FARHAD MOHEBBAN

## JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 1:98CR01141-001

HARVEY FISHBEIN, ESQ.

Defendant's Attorney

## THE DEFENDANT:

- ☒ pleaded guilty to count(s) 1,2,3 and 4.
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.
- ☐ was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

JUDGMENT # 99,1434

6/24/99

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 U.S.C. ' 371	MEDICARE KICKBACKS CONSPIRACY	01/29/1997	1
42 U.S.C. ' 1320 a-7b(b)(1).)	MEDICARE KICKBACKS	07/31/1997	2
42 U.S.C. ' 1320 a-7b(b)(1).)	MEDICARE KICKBACKS	01/22/1998	1
42 U.S.C. ' 1320 a-7b(b)(1).)	MEDICARE KICKBACKS		

The defendant is sentenced as provided in pages 2 through \_\_\_\_\_ pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_
- ☐ Count(s) \_\_\_\_\_ (is)(are) dismissed.

IT IS FURTHER ORDERED that the defendant shall notify the court of any change of name, residence, or mailing address until all fines, restitutions, and judgments are fully paid.

Defendant's Soc. Sec. No.: 096-64-8392

Defendant's Date of Birth: 09/13/1957

Defendant's USM No.: 43828-054

Defendant's Residence Address:

60 Parkway Drive

Roslyn Heights NY 11577

Defendant's Mailing Address:

60 Parkway Drive

Roslyn Heights NY 11577

MICROFILM

JUN 21 1999

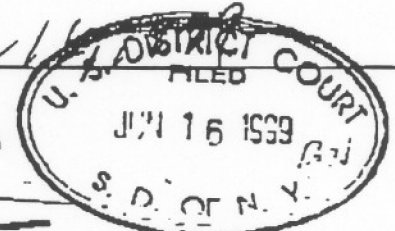
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EXHIBIT A

HON. LEONARD B. SAND  
U.S. DISTRICT JUDGE

Name &amp; Title of Judicial Officer

CERTIFIED  
JAMES M. PARKISON



Stop  
Do Not  
Scan

DEFENDANT: FARHAD MOHEB

CASE NUMBER: 1:98CR01141-001

## PROBATION

The defendant is hereby placed on probation for a term of 2 year(s)

on each of counts 1,2,3, and 4 to run concurrently with each other. SPECIAL CONDITION OF PROBATION; SIX(6) months Home Confinement. Defendant notified of right to appeal sentence.

See Additional Probation Terms - Sheet 4.01

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

☒ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☒ The defendant shall not possess a firearm as defined in 18 U.S.C. § 921. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated Wow).

## STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: FARHAD MOTHEBBAN  
CASE NUMBER: 1:98CR01141-001

### ADDITIONAL PROBATION TERMS

1) defendant shall pay a fine of \$20,000 in its entirety, within the first month of his supervision. 2) defendant shall comply with the conditions of home confinement for a period of six (6) months. During this time defendant will remain at place of residence except for employment and other activities approved by the probation officer. Defendant will maintain a telephone at his place of residence without call forwarding, a modem, caller ID, call waiting, or portable cordless telephones for the above period. At the direction of your probation officer, you shall wear an electronic monitoring device and follow electronic monitoring procedures specified by your probation officer. Home Confinement shall commence on a date to be determined by the probation officer. If so directed, defendant shall pay the cost of electronic monitoring. 3) defendant shall perform four hundred(400) hours of community service as directed by the probation officer. 4) defendant shall provide the probation officer with access to any requested financial information.



Sheet 5, Part A - Criminal Monetary Penalties

Judgment Page 3 of 5

DEFENDANT: FARHAD MOHEBBAN

CASE NUMBER: 1:98CR01141-001

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 400.00	\$ 20,000.00	

☐ If applicable, restitution amount ordered pursuant to plea agreement. . . . . \$ \_\_\_\_\_

**FINE**

The above fine includes costs of incarceration and/or supervision in the amount of \$ \_\_\_\_\_

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part 8 may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

**RESTITUTION**

☐ The determination of restitution is deferred in a case brought under Chapters 109A, 110, 110A and 113A of Title 18, offenses committed on or after 09/13/1994, until \_\_\_\_\_ An Amended Judgment in a Criminal Case will be entered after such determination.

☐ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

Name of Payee	** Total Amount of Loss	Amount of Restitution	Priority Order or Percentage of Payment
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Totals: \$ \_\_\_\_\_ \$ \_\_\_\_\_

\*\* findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994.

Sheet 5, Part B - Criminal Monetary Penalties

Judgment-Page 4 of 5

DEFENDANT: FARHAD ...

CASE NUMBER: 1:98CR01141-001

**SCHEDULE OF PAYMENTS**

Payments shall be applied in the following order: (1) assessment (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ in full immediately; or
- B ☐ \$ \_\_\_\_\_ immediately, balance due (in accordance with C, D, or E); or
- C ☐ not later than \_\_\_\_\_; or
- D ☐ in installments to commence \_\_\_\_\_ day(s) after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed, is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or
- E ☐ in \_\_\_\_\_ (e.g. equal, weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ year(s) to commence \_\_\_\_\_ day(s) after the date of this judgment

The National Fine Center will credit the defendant for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

Fine of \$20,000 to be paid in its entirety, within the first month of supervision.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States Courts National Fine Center, Administrative Office of the United States Courts, Washington, DC 20544, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. If the National Fine Center is not operating in this district, all criminal monetary penalty payments are to be made as directed by the court, the probation officer, or the United States attorney.

CASE NUMBER: 1:98CR01141-001

## STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment if necessary):

## Guideline Range Determined by the Court:

Total Offense Level: 10

Criminal History Category: I

Imprisonment Range: 6 to 12 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 2,000.00 to \$ 20,000.00

☐ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: \$

☐ Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(d).

☐ For offenses that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

☐ Partial restitution is ordered for the following reason(s):

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☒ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

☐ The sentence departs from the guideline range:

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following specific reason(s):

916gmohr mjd

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

98 Cr. 1141(LBS)

5 FARHAD MOHEBBAN,

6 Defendant.

7 -----X  
8 January 6, 1999  
9 4 o'clock p.m.  
New York, N.Y.

10 Before:

11 HON. LEONARD B. SAND,

12 District Judge

13  
14  
15 APPEARANCES

16  
17 MARY JO WHITE  
18 united States Attorney for the  
19 Southern District of New York  
20 BY: PAULETTE WUNSCH  
21 Assistant United States Attorney

22  
23 HARVEY FISHBEIN  
24 Attorney for defendant  
25

916gmoH-- mjd

2

1 [Case called)

2 \* MS. WUNSCH: Paulette Wunsch for the government.

3 Good afternoon, your Honor.

4 THE COURT: Good afternoon.

5 MR. FISHBEIN: Good afternoon, your Honor. Harvey  
6 Fishbein.

7 THE COURT: Mr. Fishbein, I understand you have an  
8 application?

9 MR. FISHBEIN: That's correct, your Honor. My  
10 application on behalf of Farhad Mohebban, the defendant, is to  
11 enter a plea of guilty to the indictment, your Honor.

12 THE COURT: The indictment has two counts. The plea  
13 is to both counts?

14 MR. FISHBEIN: I'm sorry. No, your Honor, the  
15 indictment has four counts.

16 MS. WUNSCH: It is drafted as an umbrella count, the  
17 second one, your Honor, so it appears like two but in fact in  
18 reference to page 8 you can see that it is Count 2, 3 and 4.

19 THE COURT: I see it. Page 8 includes Counts 3 and 4  
20 and the offer is to plea to all four counts?

21 MS. WUNSCH: All four counts, your Honor.

22 THE COURT: And I understand there is no plea bargain  
23 agreement in the case?

24 MS. WUNSCH: Correct, your Honor.

25 MR. FISHBEIN: Correct, your Honor.

916gmoh~ mjd

3

1 THE COURT: Mr. Kenneally, will you arraign  
2 Mr. Mohebban on the four counts.

3 THE CLERK: Mr. Mohebban, is your attorney standing  
4 beside you?

5 THE DEFENDANT: Yes.

6 THE CLERK: Mr. Mohebban, have you received a copy of  
7 the indictment, 98 Crim. 1141?

8 THE DEFENDANT: Yes.

9 THE CLERK: Mr. Mohebban, for the purpose of this  
10 proceeding do you wish to have Counts 1, and 2, Counts 3 and 4  
11 read out loud to you or do you waive the reading?

12 THE DEFENDANT: No.

13 MR. FISHBEIN: We waive the reading.

14 Judge, just so we are clear, there has been a prior  
15 arraignment on the indictment. We are withdrawing any prior  
16 pleas of not guilty at this point.

17 THE COURT: I understand.

18 THE CLERK: Mr. Mohebban, do you understand the  
19 charges on each of Counts 1, 2, 3 and 4?

20 THE DEFENDANT: Yes.

21 THE CLERK: How do you offer to plead to Counts 1, 2,  
22 3 and 4, guilty or not guilty?

23 THE DEFENDANT: Guilty.

24 BY THE COURT:

25 Q. Mr. Mohebban, how old are you, six?

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1 A. 41.

2 Q. How much schooling have you had?

3 A. More than 20 years.

4 Q. Do you read, write, speak and understand English without  
5 any difficulty?

6 A. Yes.

7 Q. Have you received a copy of this indictment and gone over  
8 it with your attorney?

9 A. Yes.

10 Q. Has he explained the charge to you?

11 A. Yes.

12 Q. Have you told him everything that you know about this  
13 matter?

14 A. Yes.

15 Q. Are there any facts you have held back from him?

16 A. No.

17 Q. Does your willingness to plead guilty at this time result  
18 from any discussions or agreements or understandings between  
19 yourself, your attorney and the government?

20 A. No.

21 MR. FISHBEIN: Judge, I don't want to call it an  
22 understanding or an agreement. There was a letter from the  
23 government pursuant to Pimentel, and I have discussed that  
24 with my client.

25 THE COURT: And that was the government's computation

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1 of the sentencing guidelines?

2 MR. FISHBELN: That's correct.

3 Q. Mr. Mohebban, do you understand that neither the Court nor  
4 the Probation Department is bound by the estimates of the  
5 sentencing guidelines that's set forth in the letter that was  
6 sent to your attorney?

7 A. Yes.

8 Q. Do *you* understand that you will have a right to continue  
9 to plead not guilty *and* that if you do so you have a right to  
10 a trial by a jury of twelve people at which trial *you* would  
11 have the right to the assistance of counsel and if you could  
12 not afford an attorney one would be supplied at no cost to  
13 you?

14 A. Yes.

15 Q. Do *you* understand that at such a trial the burden would be  
16 on the government to establish your guilt beyond a reasonable  
17 doubt to the unanimous satisfaction of all twelve jurors?

18 A. Yes.

19 Q. Do you understand that at such a trial you'd have the  
20 right to subpoena witnesses *and* to confront and to  
21 cross-examine all witnesses that were called by the government  
22 against you?

23 A. Yes.

24 Q. Do you understand *that* at such a trial you could remain  
25 silent and no inference could you drawn against you *by* reason



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1 of your silence, but if *you* wanted to you could take the stand  
2 and testify in your own defense. Do you understand that?

3 A. Yes.

4 Q. Do you understand that if you wanted to and the court and  
5 the government agreed you could have a trial before a judge  
6 without a jury in which event the same things would be true,  
7 the same burdens would be on the government and you would have  
8 the same rights?

9 A. Yes.

10 Q. Do you understand that if your offer to plea guilty is  
11 accepted: that *you* give up those rights with respect to these  
12 charges against you and any right to appeal with respect to  
13 any prior proceedings in this case and the court would have  
14 the same power to impose sentence as it would have if a jury  
15 brought in a verdict of guilty against you, Do you  
16 understand?

17 A. Yes.

18 Q. Do you understand that in connection with your plea of  
19 guilty I may ask you questions about the offense to which you  
20 are pleading guilty, and that if you answer these questions on  
21 the record and in the presence of your attorney, if your  
22 answers are false they may be used against you later in a  
23 prosecution for perjury or false statements. Do you  
24 understand that?

25 A. Yes.

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1 Q. Do you understand that upon *your* plea of *guilty* to this  
2 charge the court has the power to impose upon you the  
3 following terms of imprisonment and fines. With respect to  
4 Count 1, the conspiracy count, the court has the power to  
5 impose upon *you* a term of imprisonment not to exceed five  
6 years, a term of supervised release not to exceed three years,  
7 a fine not to exceed \$250,000, and a \$50 special assessment.  
8 Do you understand that?

9 A. Yes.

10 Q. In connection with your term of supervised release, do *you*  
11 understand that if you are sentenced to a term of supervised  
12 release and you violate the terms and conditions of supervised  
13 release you'll be subject to a further term of incarceration  
14 without credit for time previously served. Do you understand  
15 that?

16 A. Yes.

17 Q. Do you understand that with respect to Count: 2 of this  
18 indictment you'll be subject to a further term of imprisonment  
19 not to exceed five years, a term of supervised release not to  
20 exceed three years, a fine not to exceed \$250,000, and a  
21 special assessment of \$100. Do you understand that?

22 A. Yes.

23 THE COURT: I take it, Ms. Wunsch, that the sentences  
24 on counts 3 and 4 would be the same as on Count 2?

25 MS. WUNSCH: That's correct, your Honor. There is

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1 one thing I just wanted to nota. With respect to the  
2 conspiracy count, it does go into April of 19 -- into calendar  
3 year 1997, and I think that the special assessment of a  
4 hundred dollars was actually changed in '96. So that may have  
5 been an error on my part an the initiation sheet. I believe  
6 it is a hundred dollars.

3 THE COURT: Very well.

8 Q. With respect to Count I, I modify what I previously said  
9 to advise you that the special assessment would be a hundred  
10 dollars, not \$50.

11 A. Yes, sir.

12 Q. With respect to Count 3 and Count 4, the terms of  
13 imprisonment and supervised release and fine will be the same  
14 as on Count 2, do you understand that?

15 A, Yes.

16 Q. Do you understand that all these sentences and fines can  
17 be consecutive to each other, can be cumulative to each other.  
18 do you understand that?

19 A. Yes. ^

20 THE COURT: Are there any other consequences of a  
21 plea of guilty of which Mr. Mohebban should be advised? Any  
22 implications in terms of citizenship, licenses, anything of  
23 that sort?

24 MS. WUNSCH: Yes, your Honor. Under Title 42 there  
25 will be a suspension of his Medicare provider status for Some

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1 period of time. I believe that is automatic under Title 42.

2 And defense counsel is aware of that.

3 Q. Are you aware of that also, Mr. Mohebban?

4 A. Yes,

5 MR. FISHBEIN: There is one further thing, your  
6 Honor. Although this is not mandatory. his license to  
7 practice medicine in the State of New York will be subject to  
8 review as a result of this conviction. And of course  
9 Dr. Mohebban is aware of that.

10 Q. Are you, sir?

11 A. Yes.

12 Q. Mr. Mahebban, you have discussed sentencing guidelines  
13 with your attorney, have you?

14 A. Yes.

15 Q. I've already advised you but let me repeat that the  
16 Probation Department, which will prepare the presentence  
17 report, and the Court is not bound by the guideline.  
18 computation set forth in the letter of November 5. are you  
19 aware of that?

20 A. Yes.

21 Q. You understand that you will not be able to withdraw your  
22 plea of guilty or the grounds that any prediction or estimate  
23 or computations that have been made available to you with  
24 respect to the guidelines or the sentence that you in fact  
25 receive may be higher than you anticipate?

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1 A. Yes, sir, I'm aware.

2 Q. I'm not sure that's grammatically correct. Are you aware  
3 of the fact that *you* will not be able to withdraw your plea of  
4 guilty if the sentence that *you* receive is higher than that  
5 which has been the subject of an estimate or prediction to  
6 you. Do *you* understand that?

7 A. Yes, sir.

8 Q. Have *you* been induced to offer to plead guilty by reason  
9 of any pressure, force, duress, anything of that nature?

10 A. Not.

11 Q. Are *you* under the influence of any substances such as  
12 alcohol, drugs or the like that might affect your ability to  
13 understand what *you* were doing?

14 A. No.

15 Q. Do I understand that *you* are offering to plead guilty to  
16 these four counts because *you* believe that *you* are guilty of  
17 them?

18 A. Yes.

19  
20 and when and where you did it that leads *you* to believe that  
21 *you* are guilty of Count I, the Medicare kick back conspiracy  
22 charge.

23 MR. FISHBEIN: Just one moment, Judge.

24 (Pause)

25 A. Yes, your Honor. Patel, over few years I was sending some

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1 patients to his facility to do some radiological procedure.

2 He was giving me some money back in return.

3 Q. You sent patients to a facility?

4 A. He was the owner of the radiology department and some  
5 equipment company that whenever my patients need some  
6 procedure to be done then they send those patients to those  
7 facilities. In return he was giving me some money back

8 Q. That was MRI?

9 A. Yes. Yea, CAT scan and MRI and some medical --

10 Q. What about --

11 A. Some medical equipment.

12 Q. What about Park Plaza Chemists?

13 A. No, it wasn't -- that was a pharmacy. It was CAT scan,  
14 MRI and some of the medical equipment.

15 Q. Yes.

16 MR. FISHBEIN: Your Honor, the two companies were  
17 Ganesh Medical Equipment, which is for the durable medical  
18 equipment, and the other one was American MRI.

19 THE COURT: Yes.

20 MR. FISHBEIN: And those were the two companies, and  
21 the two services or equipment that are involved in this  
22 particular indictment.

23 THE COURT: What's the relevance of Park Plaza?

24 MS. WUNSCH: Yes, your Honor. Park Plaza is the  
25 pharmacy in the Bronx which the co-conspirators had taken the

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1 receipts from Lotto sales to provide cash for the kickbacks,  
2 and it is referenced in overt act 12A.

3 MR. FISHBEIN: However, your Honor, that is not  
4 anything that Dr. Mohebban was aware of or participated in.  
5 Where the actual money came from was not known by him.

6 THE COURT: That's a reference simply to the source  
7 of the moneys that were used for the kickback which the  
8 defendant received.

9 MS. WUNSCH: Correct, your Honor.

10 Q. When did this take place?

11 A. Timewise?

12 Q. Yes.

13 A. It was '94, '95.

14 Q. Where did this take place?

15 A. In my office.

16 Q. Which was located?

17 A. Astoria, Queens.

18 THE COURT: The basis for venue?

19 MS. WUNSCH: Your Honor, the basis for venue is  
20 three-fold. With respect to the conspiracy, the cash comes  
21 out of the Lotto account that I just referred to in the Bronx  
22 as well as the fact that this refers specifically to the  
23 referral of Medicare patients, your Honor. And with respect  
24 to the company American Open, which is in Queens, the claims  
25 are filed with the carrier which is GHI, which is located in

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1 Manhattan. And with respect to the durable medical equipment  
2 your Honor, that is, the claims were filed from the office of  
3 Ganesh which were located in Westchester count.

4 THE COURT: Mr. Fishbein, to the extent if any if  
5 there may be venue objection, is it waived?

6 MR. FISHBEIN: That's correct, your Honor.

7 Q. Do you understand, Mr. Mohebban, that there's a possible  
8 argument that this case should be brought not in this court  
9 but in the Eastern District of New York, that's an objection  
10 that you can raise or waive, and that by your plea of guilty  
11 in this court you waive the venue objection? Do you  
12 understand that?

13 MR. FISHBEIN: Let me explain that to him, your  
14 Honor.

15 THE COURT: Sure.

16 (Pause)

17 A. Yes, your Honor, I'm aware of that.

18 Q. Do you understand that?

19 A. Yes, your Honor,

20 Q. And are you agreeable to have all matters proceed in this  
21 court?

22 A. Yes, your Honor.

23 Q. The last overt count, the last overt act alleged in Count  
24 1 of the indictment refers to a cash kick back on January 29,  
25 1997. Did the conspiracy continue into 19973



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1 h. Yes.

2 THE COURT: Anything further with respect to the  
3 first count?

4 MS. WUNSCH: From the government, your Honor, no. I  
5 think that's sufficient.

6 Q. Mr. Mohebban, did you understand that your making the  
7 arrangements to receive the kickbacks and getting the  
8 kickbacks was illegal?

9 A. Yes, your Honor.

10 Q. With respect to Counts 2 through 4, tell me what it is  
11 that you did. Do these refer to the actual cash payments that  
12 you received?

13 A. Yes, they were separate instances that he came to my  
14 office.

15 Q. Count 2 alleges a payment in July of '97 in the amount of  
16 \$2,290, Count 3 a payment on January 22, '98 in the amount of  
17 \$3,420, and Count 4 has to be a typographical error.

18 MS. WUNSCH: Yes, your Honor, it is February 10,  
19 1998.

20 Q. Count 4 relates to a payment of February 10, '98 in the  
21 amount of \$675. Do you receive those sums of money on or  
22 about these days?

23 A. Yes, your Honor.

24 Q. Were those payments made to you pursuant to this  
25 arrangement you have already described?

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1 A. Yes.

2 THE COURT: Anything further by way of allocution  
3 that the government would request?

4 MS. WUNSCH: No, your Honor.

5 THE COURT; Mr. Fishbein, do you know of any valid  
6 legal defense that would prevail if the defendant went to  
7 trial?

8 MR. FISHBEIN: No, your Honor.

9 BY THE COURT:

10 Q. Mr. Mohebban, are you satisfied with the representation  
11 you have received from your attorney.

12 A. Yes.

13 THE COURT: Did you sign an acknowledgement of rights  
14 form?

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24 bail status?

25 MS. WUNSCH: Your Honor, the defendant has been

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1 release odd a bond. As I recall it is secured by his home and  
2 I think it is approximately \$200,000 but I can check the bond  
3 papers.

4 MR. FISHBEIN: That's correct, your Honor.

5 THE COURT: What is the government's position with  
6 respect to bail?

7 MS. WUNSCH: That *it be* continued as set.

8 THE COURT: Very well. Bail may be continued as  
9 previously set. I believe the only thing that remains is a  
10 date for sentence.

11 MR. FISHBEIN: Your Honor, on that matter,  
12 Dr. Mohebban because of the consequences of this plea not only  
13 is there the possibility of *subject* to incarceration but as  
14 the government has said and I filled in there are consequences  
15 to his medical practice, and in fact I had written a letter to  
16 the court requesting an adjournment to today for the plea  
17 because they were hoping to have these matters settled, as to  
18 the transfer of the practice and making sure his patients are  
19 being taken care of and also to try to minimize the  
20 substantial financial loss that he faces. Those arrangements  
21 are continuing. The holidays and the time of year --

22 THE COURT: What date do you request for sentence?

23 MR. FISHBEIN: I'm asking for as long as possible. I  
24 imagine you are looking at approximately a 90 day date. If we  
25 can have a bit more than that I would appreciate it.

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1 THE COURT: Government have any objection?

2 MS. WUNSCH: No, your Honor.

3 THE COURT: 150 days would be five months from now  
4 which would be June. The first Tuesday in June.

5 THE CLERK: That would, June 1st.

6 MR. FISHBEIN: Judge, just past the 4th is a request,  
7 just past June 4th. Any day the week of the 7th would be  
8 fine.

9 THE COURT: June 8th, 9:30 for sentence.

10 MR. FISHBEIN: Judge, thank you very much for that  
11 date.

12 THE COURT: You are welcome.

13 (Proceeding adjourned)

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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x

4 UNITED STATES OF AMERICA,

5 v.

98 Cr. 1141 LBS

6 FARHAD MOHEBAN,

7 Defendant.

8 -----x

9

June 16, 1999  
11:15 a.m.

10

11

Before:

12

HON. LEONARD B. SAND,

13

District, Judge

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15

## APPEARANCES

16

17

MARY JO WHITE,  
United States Attorney for the  
Southern District of New York

18

ALEXANDER HERMAN SHAPIRO,

19

Assistant United States Attorney

20

HARVEY FISHEIN,  
Attorney for defendant

21

22

Also Present:

23

DANIEL HELZNER,  
office of the Inspector General  
Department of Health & Human Services

24

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I (In open court)

2 (Case called)

3 THE COURT: The court notes that it has received  
4 material from counsel for the defendant and for the  
5 government with respect to the sentence.

6 Dr. Moheban, have you read the presentence report  
7 and gone over it with your attorney?

8 THE DEFENDANT: Yes.

4 THE COURT: There are any factual errors or  
10 misstatements contained in the presentence report?

11 THE DEFENDANT: No.

12 THE COURT: You may be seated.

13 Mr. Fishbein, I'll hear you generally with  
14 respect to the sentence.

15 MR. FISHBEIN: Well, your Honor, I don't believe  
16 it is necessary for me to belabor the record by repeating  
17 what I've contained in my letter to you of June 10th. I  
18 feel that that letter is comprehensive and tries to place  
19 the actions of Dr. Moheban into context, not only the  
20 context of his life, but the extent of the criminal  
21 motivation behind his actions or the lack of substantial  
22 criminal activity.

23 Dr. Moheban fully recognizes that the acceptance  
24 of any kickback or money in relation to the referrals was  
25 prohibited and is illegal.

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1           I think I just wanted to stress that it was not  
2 reflected in the treatment of his patients or the reason for  
3 the referrals. It was irrelevant to the treatment and to  
4 the referrals as far as being made and that it was not  
5 something that Dr. Moheban even sat back and said. "Ah, I  
6 have now a way to make some extra money" and believed he was  
7 entering into that kind of conspiracy with Mr. Patel.  
8 Acceptance of the money is understood. That doesn't go to  
9 whether it is a violation of the law, your Honor, but I do  
10 believe it goes to his mind-set, and it does go to who is  
11 Dr. Moheban.

12           I tried to give your Honor an idea, through the  
13 letters from his patients and from his community work, the  
14 extent that Dr. Moheban has tried to be a contributor to  
15 society, and I think that it is an impressive record, and I  
16 put in letters that Dr. Moheban had received prior to the  
17 case.

18           It is one thing for a patient to come to the aid  
19 of a doctor or to Dr. Moheban's aid post-arrest or  
20 indictment when there is a request for a letter, but these  
21 letters were voluntary beforehand, and they go and express  
22 the considerable comfort that Dr. Moheban was able to give  
23 to his patients and to their families beyond the normal  
24 doctor-patient relationship.  
25

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1 information that goes to what we think would be the lack of  
2 planning here and goes to the two-point enhancement which we  
3 do not believe is appropriate. We completely agree that  
4 these were repeated acts over a course of time, but --

5 THE COURT: You certainly have no quarrel with  
6 the sentencing recommendation in the presentence report?

7 MR. FISHBEIN: I have no quarrel with the fact  
8 that they are at the minimum sentencing recommendation of  
9 the home confinement, but if there is no two-point  
10 enhancement, your Honor, your Honor is then -- if he so  
11 chooses -- free to not put any kind of home confinement,  
12 which I believe would not be an inappropriate sentence here,  
13 so I have --

14 THE COURT: You're dealing here with the type of  
15 criminal behavior where deterrence is a major factor. The  
16 temptation is obviously very great because there are many  
17 people out there anxious and willing to pay the kickbacks.  
18 You're dealing with an affluent defendant who is not acting  
19 out of any economic need, and the sentencing recommendation  
20 in the presentence report is, I think, extremely lenient  
21 under the law of these circumstances.

22 One thing that I would like to know about.  
23 because I do believe that the sentencing recommendation is  
24 extremely lenient, are the collateral consequences to the  
25 defendant of this conviction.



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1 MR. FISHBEIN: Well, Judge, actually I was going  
2 to respond in the same way to your point about deterrence,  
3 because the deterrence, I believe, is in the arrest and  
4 ultimate conviction.

5 The collateral consequences are substantial.. The  
6 law mandates a five-year bar for Medicare as a minimum.  
7 That in and of itself will destroy any doctor's practice  
8 here in the City of New York, specifically Dr. Moheban's,  
4 because not only does Medicare do it, but from what 1  
10 understand, Medicaid also, of course, has the same kind of  
11 bar and that the private insurance companies then follow  
12 through. In effect is his private practice will be  
13 terminated for a minimum of five years,

14 In addition, the New York State Licensing Bureau  
15 will review Dr. Moheban's license. They could suspend him.  
16 They could revoke it. My understanding is that his record  
17 is clean as far as the licensing authorities are concerned,  
18 and we're hopeful that that would be merely a suspension.

19 But, at any rate, it might well be that Dr.  
20 Moheban cannot continue practicing as a doctor for a certain  
21 period of time. Now, I can't look into a crystal ball and  
22 say this is definitely going to happen. I will say the law  
23 does mandate the Medicare debarment, but it does not mandate  
24 the licensing.

25 What he has done is that he has placed, by his

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1 arrest, indictment and conviction, he has placed his  
2 livelihood at risk. That is a substantial collateral  
3 punishment, your Honor, which I feel regardless of -- and 3  
4 am not suggesting that incarceration is appropriate here,  
5 but incarceration is, of course, a significant consequence,  
6 but long term I think that Dr. Moheban is already receiving  
7 significant consequences, and other doctors, by hearing and  
8 reading about the arrests and the convictions, understand  
9 that the government is enforcing the rules, that there are  
10 arrests that are being done, and I believe it is an  
11 endangering of their license and their practice that is  
12 paramount.

13 I would also suggest to your Honor that the  
14 amount of monies here, which does go to punishment, it is .  
15 inexcusable, even a dollar, I appreciate that, but there  
16 were a number of cases in this matter that there are there  
17 were arrests in. According to the government -- and I have  
18 no reason to doubt it -- the amount of money that Dr.  
19 Moheban allegedly received was at the very low end of the  
20 others that were arrested, so I ask the court to take those  
21 things into consideration.

22 I don't believe I have anything further to say on  
23 any point.

24 THE COURT: Does the government have anything to  
25 say before I hear from the defendant?

Approved:

Robin E. Abrams

ROBIN E. ABRAMS

Assistant United States Attorney

Before:

HON. KEVIN NATHANIEL FOX

United States Magistrate Judge

Southern District of New York

98 MAG. 1424

----- x  
UNITED STATES OF AMERICA,

98-

JOC #

COMPLAINT

- v. -

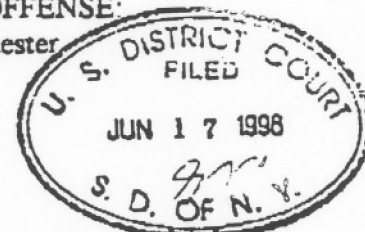
FARHAD MOHEBBAN, M.D.,

Violations of 18 U.S.C. §§ 371 and 2,  
and 42 U.S.C. § 1320a-7b(b)(1)(B)

Defendant.

COUNTIES OF OFFENSE:

Bronx and Westchester

----- x  
SOUTHERN DISTRICT OF NEW YORK, ss.:

JENNIFER HALE KEENAN, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

From in or about December 1993 up to and including on or about April 24, 1997, in the Southern District of New York and elsewhere, defendant Dr FARHAD MOHEBBAN, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other to violate the laws of the United States, to wit, Title 42, United States Code, Sections 1320a-7b(b)(1)(B) and 1320a-7(b)(2)(B), and to defraud the United States and agencies of the United States.

It was a part and an object of said conspiracy that defendant Dr. FARHAD MOHEBBAN would and did knowingly and willfully solicit and receive remuneration, to wit, direct overt and covert payments of cash kickbacks and bribes from co-conspirators Niranjan Patd, a/k/a "Ron Patel," Joseph Goldstein, Ganesh Surgical Supplies, Inc. ("Ganesh"), American Open MRI ("American Open"), in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering goods, facilities, services, and items for which payment may be made in whole and in part under a Federal health care program, namely, the Medicare program.

It was a further part and an object of said conspiracy that co-conspirators Niranjan Patel, a/k/a "Ron Patel," Joseph Goldstein, Ganesh, and American Open would and did offer and pay remuneration, to wit, direct overt and covert payments of cash kickbacks and bribes, to defendant Dr.

Page 2

FARHAD MOHEBBAN to induce him to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering goods, facilities, services, and items for which payment may be made in whole and in part under a Federal health w e program, namely, the Medicare program

In furtherance of said conspiracy, and to effect the objects thereof, the defendant and others committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On repeated occasions from in or about December 1993 through on or about April 24, 1997, defendant Dr. FARHAD MOHEBBAN and members of his office staff referred patients to Ganesh, a supplier of durable medical equipment ("DME") located in Westchester County, in exchange for which Ganesh paid the defendant cash kickbacks.

b. On repeated occasions from in or about December 1993 through on or about April 24, 1997, Niranjana Patel a/k/a "Ron Patel," a co-conspirator not named as a defendant herein, prepared tally sheets for himself and for defendant Dr. FARHAD MOHEBBAN which reflected how many referrals Ganesh had received from defendant MOHEBBAN and members of his staff for DME and the resulting amount of cash kickbacks owed to the defendant.

c. On repeated occasions from in or about June 1996 through on or about April 24, 1997, defendant Dr. FARHAD MOHEBBAN and members of his office staff referred patients to American Open, a facility that performs magnetic resonance imaging ("MRI") and other radiological services located in Queens, New York, in exchange for which American Open paid the defendant cash kickbacks.

d. On repeated occasions from in or about June 1996 through on or about April 24, 1997, Joseph Goldstein, a co-conspirator not named as a defendant herein, prepared tally sheets for himself and for defendant Dr. FARHAD MOHEBBAN which reflected how many referrals American Open had received from defendant MOHEBBAN and members of his staff for radiological services and the resulting amount of cash kickbacks owed to the defendant.

e. On repeated occasions from in or about December 1993 through on or about April 24, 1997, Niranjana Patel, a/k/a "Ron Patel," and Joseph Goldstein, both of whom are co-conspirators not named as defendants herein, assembled out of cash proceeds of Lotto ticket sales at a pharmacy they owned in Bronx, New York, the money that they used to make kickback payments to defendant Dr. FARHAD MOHEBBAN, among other doctors, for referrals to both Ganesh and American Open.

(Title 18, United States Code, Section 371.)

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4. Niranjan Patel has advised me that in or about December 1993 he began delivering cash kickbacks to defendant Dr. FARHAD MOHEBBAN in return for MOHEBBAN referring patients to Ganesh. Patel stated that defendant MOHEBBAN is a pulmonologist with an office in Queens, New York. After having been introduced to defendant MOHEBBAN, Patel advised me that he informed MOHEBBAN that he would pay cash kickbacks for referrals to his company Ganesh. Patel specifically advised MOHEBBAN of the rates that he would pay for particular referrals, including a monthly rate of \$60.00 for referrals of patients receiving oxygen therapy. The monthly rate for oxygen therapy was later reduced to \$50.00 per month.

5. Patel has advised me that when he set up American Open in or about November 1995, he contacted various doctors, including defendant Dr. FARHAD MOHEBBAN, and advised them of the existence of the new facility and that he would pay cash kickbacks for referrals to American Open. Patel has advised me that in or about June 1996 he began delivering cash kickbacks to the defendant MOHEBBAN in return for patients whom defendant MOHEBBAN had referred to American Open.

6. Patel advised me that prior to commencing his cooperation with the Government in April 1997, he had been delivering the cash kickback payments to defendant Dr. FARHAD MOHEBBAN approximately once every two months, and that his most recent payment had been made in or about February or March 1997. Based on a review of his records, Patel indicated that he paid ~~approximately~~ a total of approximately \$2,400.00 in 1994, \$4,830.00 in 1995, and \$4,710.00 in 1996 for referrals to Ganesh and a total of approximately \$575.00 in 1996 for referrals to American Open. During 1997, MOHEBBAN referred approximately 63% of his Medicare patients for whom he made a DME referral to Ganesh.

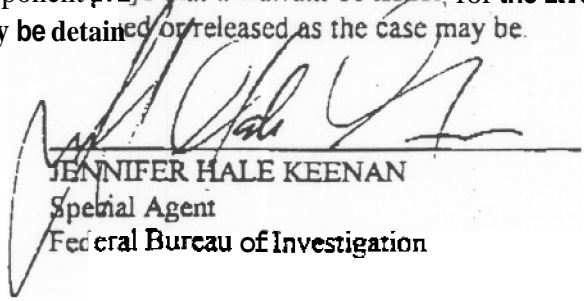
7. Patel advised me that prior to making each kickback payment to defendant Dr. FARHAD MOHEBBAN, he prepared a chart which listed each patient that MOHEBBAN or his office had referred to either Ganesh or American Open, the type of service or equipment ordered, and the applicable kickback amount. Patel said that at the time he made the kickback payment he supplied defendant MOHEBBAN with a copy of the chart for the time period for which he was making the payment. Patel has informed me that he paid cash kickbacks for all patients referred by MOHEBBAN to either Ganesh or American Open, without regard to whether the patient had private insurance or Medicare, but that during the entire time period during which MOHEBBAN was making referrals in exchange for kickbacks many of the patients were in fact Medicare beneficiaries.

8. Joseph Goldstein has advised me that he was primarily responsible for assembling the cash that was used to make the kickback payments to Dr. FARHAD MOHEBBAN. Goldstein further informed me that he obtained the cash from Park Plaza pharmacy Lotto sales and brought it to the Ganesh office in Westchester. Patel typically divided the cash into envelopes with the appropriate amount for each doctor and made the actual payment.

9. A representative of the State of New York, State Education Department, Division of Professional Licensing Services, has informed me that defendant Dr. FARHAD

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WHEREFORE, deponent prays that a warrant be issued, for the arrest of the above-named defendant, and that he may be detained or released as the case may be.

  
JENNIFER HALE KEENAN  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
\_\_\_ day of \_\_\_ 1998.

JUL 17 1998

  
WON. KEVIN NATHANIEL FOX  
United States Magistrate Judge

CERTIFIED  
JAMES M. PARKISON  


**STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

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**IN THE MATTER**

**OF**

**FARHAD MOHEBBAN, M.D.  
NY-94-06-8371-A**

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**CONSENT**

**AGREEMENT**

**AND ORDER**

**BPMC No. 01-15**

**FARHAD MOHESBAN, M.D., (Respondent) deposes and says:**

That on or about August 5, 1988, I was licensed to practice as a physician in the State of New York, having been issued License No. 175734 by the New York State Education Department.

My current address is 60 Parkway Drive, Roslyn Hts., N.Y. 11577 and I will advise the Director of the Office of Professional Medical Conduct of any change of my address within thirty (30) days thereof.

I understand that the New York State Board of Professional Medical Conduct has charged me with one (1) specification of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A."

I do not contest the one (1) specification, in full satisfaction of the charges against me. I, hereby, agree to the following penalties:

Five (5) years probation and a \$5,000.00 Fine.

I further agree that the Consent Order for which I hereby apply shall  
impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain active registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and will continue while the licensee possesses his/her license; and

That Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC. This condition shall be in effect beginning upon the effective date of the Consent Order and will continue while the licensee possesses his/her license.

I hereby stipulate that any failure by me to comply with such conditions shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event that I am charged with professional misconduct in the future, the agreement and order shall be admitted into evidence in that proceeding.



I hereby make this Application to the **State Board for Professional Medical Conduct** (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement or to my attorney or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and *accord* and not under duress, compulsion or restraint of any kind or manner, in consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits. I knowingly waive any right I may have to contest the Consent Order for which I, hereby, apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED: 1/10/01

  
FARHAD MOHEBBAN, M.D.  
Respondent

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof,

DATE: 1/10/01

Amy T. Kulb  
AMY T. KULB, ESQ  
Attorney for Respondent

DATE: 16 January 2001

Robert Bogan  
ROBERT BOGAN  
Assistant Counsel  
Bureau of Professional Medical Conduct

DATE: 4/18/01

Patricia E. Whitman  
PATRICIA E. WHITMAN  
Deputy Director for Operations  
Office of Professional Medical Conduct

STATE OF NEW YORK

DEPARTMENT OF HEALTH

STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
FARHAO MOHEBBAN, M.D.

STATEMENT  
OF  
CHARGES

FARHAD MOHEBBAN, M.D., the Respondent, was authorized to practice medicine in New York ~~state~~ on August 5, 1988, by the issuance of license number 175734 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about January 6, 1999, in the United States District Court, Southern District of New York, Respondent was found guilty of Medicare Kickback Conspiracy, in violation of 18 USC 371, and three (3) counts of Medicare Kickbacks, in violation of 42 USC 1320 a-7b(b)(1), and was sentenced to pay a \$20,000.00 fine and a \$400.00 assessment, and two (2) years probation.

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(ii) by having been convicted of an act constituting a crime under federal law, in that Petitioner charges:

1. The facts in paragraphs A.

DATED: *Nov. 21*, 2000  
Albany, New York

  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional Medical Conduct

### **Terms of Probation**

1. Respondent shall conduct himself/herself in all ways in a manner befitting his/her professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his/her profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary action by any local, state or federal agency, institution or facility, within thirty days of each action.
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law section 18; CPLR section 5001; Executive section 32].
4. Respondent shall notify the Director of OPMC, of his intention to practice in the State of New York at least thirty (30) days prior to any such practice.
5. Respondent's professional performance may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations of OPMC offices.
6. Respondent shall maintain legible and complete medical records, which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent shall comply with all requirements of Article 33 of the Public Health Law and of New York State Department of Health regulations, and shall meet as requested with OPMC to provide proof of compliance.
8. Respondent shall comply with all terms, conditions, and restrictions, limitations and penalties which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC, and/or Board may initiate a violation of probation proceeding and/or such other proceeding against Respondent as may be authorized pursuant to the law.

### Terms of Probation

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2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director of the Office of Professional Medical Conduct, New York State Department of Health, 433 River Street, Suite 303, Troy, New York 12180-2299; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary action by any local, state or federal agency, institution or facility, within thirty days of each action,
3. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by New York State. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law section 171(27)]; State Finance Law Section 18; CPLR section 5001; Executive section 32].
4. Respondent shall notify the Director of OPMC of his intention to practice in the State of New York at least thirty (30) days prior to any such practice.
5. Respondent's professional performance of any practice in New York State may be reviewed by the Director of OPMC. This review may include, but shall not be limited to, a review of office records, patient records and/or hospital charts, interviews with or periodic visits with Respondent and his/her staff at practice locations of OPMC offices.
6. Respondent shall maintain legible and complete medical records, which accurately reflect the evaluation and treatment of patients. The medical records shall contain all information required by State rules and regulations regarding controlled substances.
7. Respondent shall comply with all requirements of Article 33 of the Public Health Law and of New York State Department of Health regulations, and shall meet as requested with OPMC to provide proof of compliance.
8. Respondent shall comply fully with the Consent Agreement and Order of October 26, 1999 of the State Medical Board of Ohio and any extension or modification thereof. Respondent shall provide a written authorization for the State Medical Board of Ohio to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the Ohio Consent Agreement and Order. Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the Ohio Consent Agreement and Order during the declaration period specified.

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